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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,954	02/27/2002	Dwip N. Banerjee	AUS920020025US	5351
7590 Intellectual Property Law Dept. IBM Corporation 11400 Burnet Road Austin, TX 78758		04/10/2007	EXAMINER GREIMEL, JOCELYN	
			ART UNIT 3693	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/10/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/087,954	BANERJEE ET AL.	
	Examiner	Art Unit	
	Jocelyn Greimel	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 February 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-41 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>02/27/02</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to Applicant's application filed 27 February 2002. Claims 1-41 are pending and are presented to be examined upon their merits. Claims 1, 25 and 32 are independent claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims rejected under 35 U.S.C. 102(b) as being anticipated by Himmelstein (US Patent No. 7,080,050 B1). In reference to claims 1, 25 and 32, Himmelstein discloses a method, system and apparatus for a bartering system including:

- a. receiving a needs list having at least one needed item a user desires to acquire; receiving a priority indication for at least one of i) each of the at least one needed item, and ii) each group of at least one item (col. 2, line 26+; col. 3, line 42+; col. 4, line 26+; col. 5, line 26+; col. 6, line 53+; col. 7, line 1+; col. 16, line 34+; col. 17-18; figure 6);
- b. constructing the needs list with the priority indication into a barter protocol language (abstract; col. 2, line 26+; col. 3, line 42+; col. 4, line 26+); and

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- c. searching available items for a match with each of the at least one needed item based upon the priority indication wherein higher priority indicated needed items are attempted to be matched before lower priority indicated needed items (abstract; col. 2, line 26+; col. 3, line 42+; col. 4, line 26+).
4. receiving an availability list having at least one available item the user desires to trade for the at least one needed item (abstract; col. 2, line 26+; col. 3, line 42+; col. 4, line 26+).
5. wherein searching available items is performed first within a same bartering system and performed second across a different bartering system if no match is found during the search within the same bartering system (abstract; col. 2, line 26+; col. 3, line 42+; col. 4, line 26+).
6. wherein the needs list further comprises a range of near equivalent items with each near equivalent item having an associated priority indication indicating a user's desire to accept a given near equivalent item in lieu of a given needed item if a match for the given needed item is not found (col. 7, line 15+);
7. wherein the match is a direct match having a one to one correspondence (col. 7, line 15+);
8. wherein the match is a chained association involving the needs list and availability lists of a plurality of users (col. 2, line 26+; col. 3, line 42+; col. 4, line 26+; col. 5, line 26+; col. 6, line 53+; col. 7, line 1+; col. 16, line 34+; col. 17-18; figure 6);

9. wherein the priority indication for a given needed item is indicated by a monetary value that a user is willing to provide for the needed item to carry out a bartering transaction (col. 7, line 1+);
10. further comprising receiving a second priority indication for a given available item indicating a user's desire to use the given available item to carry out a bartering transaction col. 2, line 26+; col. 3, line 42+; col. 4, line 26+; col. 5, line 26+; col. 6, line 53+; col. 7, line 1+; col. 16, line 34+; col. 17-18; figure 6);
11. wherein the second priority indication is indicated by a monetary value that the user is willing to accept for the given available item col. 2, line 26+; col. 3, line 42+; col. 4, line 26+; col. 5, line 26+; col. 6, line 53+; col. 7, line 1+; col. 16, line 34+; col. 17-18; figure 6);
12. further comprising receiving a monetary value associated with each of the at least one needed item col. 2, line 26+; col. 3, line 42+; col. 4, line 26+; col. 5, line 26+; col. 6, line 53+; col. 7, line 1+; col. 16, line 34+; col. 17-18; figure 6);
13. further comprising receiving a monetary value priority indication, associated with the received monetary value, wherein the monetary value priority indication indicates a user's willingness to vary a payment value for a given needed item from the monetary value col. 2, line 26+; col. 3, line 42+; col. 4, line 26+; col. 5, line 26+; col. 6, line 53+; col. 7, line 1+; col. 16, line 34+; col. 17-18; figure 6);
14. further comprising receiving a monetary value associated with each of the at least one available item col. 2, line 26+; col. 3, line 42+; col. 4, line 26+; col. 5, line 26+; col. 6, line 53+; col. 7, line 1+; col. 16, line 34+; col. 17-18; figure 6);

15. further comprising receiving a monetary value priority indication, associated with the received monetary value, wherein the monetary value priority indication indicates a user's willingness to vary a received value for a given available item from the monetary value col. 2, line 26+; col. 3, line 42+; col. 4, line 26+; col. 5, line 26+; col. 6, line 53+; col. 7, line 1+; col. 16, line 34+; col. 17-18; figure 6);
16. wherein the monetary value is received from data provided by a rating agency col. 2, line 26+; col. 3, line 42+; col. 4, line 26+; col. 5, line 26+; col. 6, line 53+; col. 7, line 1+; col. 16, line 34+; col. 17-18; figure 6);
17. wherein each of the at least one needed item can be at least one of a physical item and a nonphysical item col. 2, line 26+; col. 3, line 42+; col. 4, line 26+; col. 5, line 26+; col. 6, line 53+; col. 7, line 1+; col. 16, line 34+; col. 17-18; figure 6);
18. wherein each physical item and each nonphysical item has a corresponding representation mechanism within the barter protocol language col. 2, line 26+; col. 3, line 42+; col. 4, line 26+; col. 5, line 26+; col. 6, line 53+; col. 7, line 1+; col. 16, line 34+; col. 17-18; figure 6);
19. further comprising indicating equivalency of at least one available item with at least one needed item col. 2, line 26+; col. 3, line 42+; col. 4, line 26+; col. 5, line 26+; col. 6, line 53+; col. 7, line 1+; col. 16, line 34+; col. 17-18; figure 6);
20. further comprising finding a match for at least one given available item in consideration for a found match for at least one given needed item, wherein the at least one available item, and the at least one needed item are represented in terms of

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equivalency col. 2, line 26+; col. 3, line 42+; col. 4, line 26+; col. 5, line 26+; col. 6, line 53+; col. 7, line 1+; col. 16, line 34+; col. 17-18; figure 6).

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

23. Claims 4 and 17-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Himmelstein in view of Official Notice. In reference to claims, 4 and 17-20, Himmelstein discloses a method, system and apparatus for a bartering system as disclosed supra. However, Himmelstein does not disclose:

- d. translating, before the searching is performed across the different bartering system, the needed items to at least one of i) a common barter protocol

language, and ii) a different barter protocol language of the different bartering system;

- e. wherein the barter protocol language is in XML;
- f. wherein the nonphysical item represents a needed service;
- g. wherein each of the at least one available item can be at least one of a physical item and a nonphysical item;
- h. wherein the nonphysical item represents an available service.

However, the Examiner takes Official Notice that: (1) translation of computer data across systems, (2) use of XML as a protocol language, and (3) auctioning physical and/or non-physical items such as services; are old and well known in the computer/data processing arts and the online commerce and online auction environments. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to have modified the bartering system of Himmelstein with the translation, XML protocol language and the different item groups because the processes would make the bartering system more efficient and user-friendly; the modifications would broaden the auction and create more business.

Conclusion

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached on Monday - Friday 8:30 AM - 4:30 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel
Examiner, Art Unit 3693
March 28, 2007

Jen A. Kramer 3/29/07
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